

ASSEMBLY BILL

No. 2549

Introduced by Assembly Member Hayashi

February 22, 2008

An act to add Section 1399.819 to the Health and Safety Code, and to add Section 10901.85 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2549, as introduced, Hayashi. Health care coverage: notification.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a plan or insurer from rescinding, canceling, or limiting a contract or policy due to the plan or policy's failure to complete medical underwriting and resolve all reasonable questions arising from written information on or with an application before issuing a contract or policy. Existing law requires that an individual contract or policy be renewed except for nonpayment of the required premiums or fraud or intentional misrepresentation of material fact under the terms of the coverage by the individual.

This bill would require health care service plans and health insurers to, within 6 months of issuing an individual health care service plan contract or individual health insurance policy, investigate the information submitted on or with the application for the contract or policy and notify the subscriber, enrollee, and insured whether the contract or policy will be cancelled or rescinded due to any inaccuracy

in that information. The bill would prohibit the plan or insurer from cancelling or rescinding the contract or policy due to any inaccuracy in that information after the 6-month period. The bill would authorize a subscriber, enrollee, or insured to request a specified review by the director or the commissioner if he or she believes a contract or policy was cancelled in violation of that provision. The bill would require the director to notify a plan if a proper complaint exists and would require the plan to reinstate the enrollee, subscriber, or insured within 15 days of receiving that notice, pending a hearing, as specified.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1399.819 is added to the Health and
- 2 Safety Code, to read:
- 3 1399.819. (a) Notwithstanding Section 1389.3, within six
- 4 months of issuing an individual health care service plan contract,
- 5 the plan shall investigate the information submitted on or with the
- 6 application form for the contract and notify the corresponding
- 7 subscriber and enrollees whether that information was deemed to
- 8 be accurate and whether the contract will be cancelled or rescinded
- 9 because of any inaccuracy in that information.
- 10 (b) Notwithstanding Sections 1357.54, 1389.3, and 1399.810,
- 11 after six months following the issuance of an individual health
- 12 care service plan contract, a plan shall not cancel or rescind the
- 13 contract due to any inaccuracy in the information submitted on or
- 14 with the application form for the contract.
- 15 (c) A subscriber or enrollee who believes that his or her contract
- 16 was cancelled or rescinded in violation of this section may request
- 17 a review by the director. If the director determines that a proper
- 18 complaint exists under this section, the director shall notify the

1 plan and the enrollee or subscriber. Within 15 days after receipt
2 of that notice, the plan shall reinstate the enrollee or subscriber
3 pending a hearing before the director. If, after the hearing, the
4 director determines that the cancellation or rescission was proper,
5 the director shall authorize the plan to cancel the enrollee or
6 subscriber's contract.

7 (d) The director shall review requests submitted pursuant to
8 subdivision (c) within a period of time appropriate to the overall
9 well-being and health of affected subscribers and enrollees.

10 (e) This section shall only apply to individual health care service
11 plan contracts issued on or after January 1, 2009.

12 SEC. 2. Section 10901.85 is added to the Insurance Code, to
13 read:

14 10901.85. (a) Notwithstanding Section 10384, within six
15 months of issuing an individual health benefit plan, the carrier
16 shall investigate the information submitted on or with the
17 application form for the plan and notify the corresponding insured
18 whether that information was deemed to be accurate and whether
19 the plan will be cancelled or rescinded because of any inaccuracy
20 in that information.

21 (b) Notwithstanding Sections 10273.6, 10384, and 10901.8,
22 after six months following the issuance of an individual health
23 benefit plan, a carrier shall not cancel or rescind the plan due to
24 any inaccuracy in the information submitted on or with the
25 application form for the plan.

26 (c) An insured who believes that his or her plan was cancelled
27 or rescinded in violation of this section may request a review by
28 the commissioner. If the commissioner determines that a proper
29 complaint exists under the provisions of this section, the
30 commissioner shall notify the carrier and the insured. Within 15
31 days after receipt of that notice, the carrier shall reinstate the
32 insured pending a hearing before the commissioner. If, after the
33 hearing, the commissioner determines that the cancellation or
34 rescission was proper, the commissioner shall authorize the carrier
35 to cancel the insured's policy.

36 (d) The commissioner shall review requests submitted pursuant
37 to subdivision (c) within a period of time appropriate to the overall
38 well-being and health of affected insureds.

39 (e) This section shall only apply to individual health benefit
40 plans issued on or after January 1, 2009.

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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